

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

COURTS – The Andhra Pradesh Promotion of Social Audit and Prevention of Corrupt Practices Act 2012 – Establishment of thirteen (13) Special Mobile Courts for trial of offences under the Act in the State – Andhra Pradesh Promotion of Social Audit and Prevention of Corrupt Practices Rules 2013 - Orders - Issued.

PANCHAYAT RAJ AND RURAL DEVELOPMENT (RD-II) DEPARTMENT

G.O.Ms.No. 10

Dated:09.01.2013
Read the following:-

1. The Andhra Pradesh Promotion of Social Audit and Prevention of Corrupt Practices Ordinance, 2012 (AP Ordinance No.1 of 2012).
2. G.O.Ms.No.19 LAW (LA&J-Home-Courts.C) Department, Dated: 21-02-2012
3. G.O.Ms.No.26 LAW (LA&J-Home-Courts.C) Department Dated: 12-03-2012.
4. G.O.Ms.No.43 Finance (SMPC-I) Department Dated: 23.02.2012.
5. Andhra Pradesh Promotion of Social Audit and Prevention of Corrupt Practices Act, 2012.

<<>>

ORDER:

In the G.O. second read above, Government have accorded sanction for creation/establishment of eight (8) Special Mobile Courts at the places specified therein, in the State to trial the offences under the Andhra Pradesh Promotion of Social Audit and Prevention of Corrupt Practices Ordinance, 2012.

2. In the reference 4th read above the Finance Department have accorded sanction for creation of the following posts for the newly created eight (8) Special Mobile Courts prescribing the mode of appointment to such posts as follows:-

(i) Posts for each such Special Mobile Court shall be as follows:

Sl.No.	Name of the Post	No. of posts	Scale of Pay
1.	Judicial Magistrate of 1 st Class	01	Rs. 27700 – 44770
2.	Head Clerk	01	Rs. 14860 – 39540
3.	Junior Assistant	02	Rs. 8440 – 24950
4.	Steno – Typist	01	Rs. 10900 – 31550
5.	Typist	01	Rs. 8440 – 24950
6.	Driver	01	Rs. 7960 – 23650
7.	Attender	02	Rs. 6700 – 20110

(ii) Appointment of Special Magistrates to the said Special Mobile Courts shall be either from the Judicial officers working in the Courts or by appointment of suitable retired Judicial Officers (Emoluments of Rs. 50,000/- p.m. and allowance of Rs.500/- per day in case of appointment of suitable retired Judicial Officers)

(iii) Appointment of the Head Clerk in each Special Mobile Court shall be on deputation from the Courts;

(iv) Appointment of the remaining personnel for each Special Mobile Court shall be either on deputation from the Courts or on outsourcing basis on the terms and conditions applicable to such appointment.

(v) Appointing authority for the personnel in Sub para (iii) & (iv) shall be Commissioner, RD.

3. Now therefore the Government have decided to frame recruitment Rules for appointment of Special Magistrates and staff in the above 8 Special Mobile Courts.

4. A copy of this Notification is available on the Internet and can be accessed with the address www.aponline.gov.in

NOTIFICATION

In exercise of the powers conferred under section 16 of the Andhra Pradesh promotion of Social Audit and Prevention of Corrupt Practices Act, 2012 (Andhra Pradesh Act No.3 / 2012) the Governor of Andhra Pradesh hereby makes following the Rules.

Chapter –I Preliminary

1. **Short title and commencement.-**

- (a) These rules may be called the Andhra Pradesh Promotion of Social Audit and Prevention of Corrupt Practices Rules 2013
- (b) They shall come into force on the date of publication in the Official Gazette.

2. **Definitions: in these rules, unless the context otherwise requires:-**

- (a) "Act" means the Andhra Pradesh Promotion of Social Audit and Prevention of Corrupt Practices Act, 2012;
- (b) "Employee" means the employees of the Special Mobile Court appointed on contract basis or deputation
- (c) "Scheme and programs" under sub section (2) of section 1 of the Act includes all the developmental schemes and programs undertaken by the government.
- (d) "Special Court"- Means Special Mobile Courts constituted under the subsection (1) of section 3 of the Act.
- (e) "Special Magistrate" means the Presiding officer of the Special Mobile Court appointed under subsection (2) of section (3) of the Act.
- (f) **Words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.**

Chapter II

Establishment of Special Mobile Courts and terms and conditions of service of officers and staff

3. **Establishment and functioning of Mobile Courts**

Government is competent to establish the Special Mobile courts as specified under section 3 of the Act and may relocate and amalgamate and abolish the Special Mobile Courts

4. **Staffing pattern**

- (1) Each Special Mobile Court shall have the following staffing pattern:-

Sl.No.	Name of the Post	No. of posts
1.	Special Magistrate (Judicial Magistrate of 1 st Class)	01
2.	Head Clerk	01
3.	Junior Assistant	02
4.	Steno – Typist	01
5.	Typist	01
6.	Driver	01
7.	Attender	02

- (2) The pay and allowances shall be as may be prescribed by the Government from time to time.

5. Appointment of Special Magistrate

- (i) The High Court is the competent authority to make appointment and confer the powers on the Special Magistrate on the recommendation by the Government.
- (ii) Special Magistrate shall be by deputation from the Judicial officers working in the Courts or by appointment of suitable retired Judicial Officers on contract basis.
- (iii) In case deputation of Judicial Officers working in the courts they shall not be less than the rank of Ist Class Magistrate and shall possess adequate experience in administration of criminal justice.
- (iv) The eligibility criteria for the appointment of retired judicial officers as Special Magistrate to preside over the Special Mobile Court shall be as follows;
 - (a) Officers shall be retired in the cadre 1st Class Magistrate or above and shall possess adequate experience in administration of criminal justice.
 - (b) Officers who retired on attaining the age of superannuation of sixty years and who have not attained the age of sixty nine years.
 - (c) Officers having satisfactory record of service.
 - (d) The Officers shall submit Medical Fitness Certificates and should be physically and mentally fit to hold the post. The term of re-employment will be determined from time to time by the High Court.
 - (e) The officers who were dismissed, removed, compulsorily retired or made to seek retirement from service, are not eligible for such appointment.
 - (f) The posting and transfers of the officers shall be at the sole discretion of the High Court as required and necessitated by administrative exigencies.
 - (g) They shall be function under the supervision and the administrative control of the Hon'ble High Court.
 - (h) On appointment, the appointees shall enter into an agreement with the High Court initially for a period of one year, subject to renewal for a further period from time to time at the discretion of the High court. And the format of contract is as prescribed by the High Court

6. Remuneration for the Special Magistrates

The Judicial Officer appointed on deputation will carry the pay and allowance attached to his post and whereas in case of appointment from retired judicial officers they will get the fixed remuneration of Rs. 50,000/- p.m. and allowance of Rs.500/- per day /sitting and entitled for 15 days of casual leave in a year

7. Code of conduct and maintenance of discipline.

- (1) The code of conduct of the judicial officers working on deputation is the same as governed by their service.
- (2) As regard to retired judicial officers they shall observe absolute discipline of a judicial officer ordinary observe during the course of his service.
- (3) The retired judicial officer shall not engage or accept any other occupation or employment during the continuance of contract.
- (4) They shall strive to achieve the target fixed by the High Court

8. Appointment of Head Clerk.

The appointment of Head Clerk shall be on deputation from Judicial Ministerial Service or by appointment on contract basis subject to fulfillment of following eligibility conditions.

- (a) Who retired as Head Clerk and above cadre on attaining the age of superannuation in Judicial ministerial service.
- (b) Who have not attained the age of 65 years.
- (c) Who have satisfactory record of service
- (d) Subject to production of physical and mental fitness certificate from competent medical officer

The Contract is renewable every year subject to satisfactory performance and fitness

9 Appointment of Junior Assistant

The appointment of Junior Assistant shall be on deputation from Judicial Ministerial Service or by appointment on contract basis subject to fulfillment of following conditions.

- (a) Who should have adequate experience in handling legal matters.
- (b) Who have not attained the age of 60 years.
- (c) Who have satisfactory record of service
- (d) Subject to production of physical and mental fitness certificate from competent medical officer

10 Appointment of Steno –typist

The appointment of Steno-Typist shall be on deputation from judicial service or on contract basis subject to fulfillment of following conditions.

- (a) Who should possess higher typing and Stenography.
- (b) Who have not attained the age of 58 years.
- (c) Who have satisfactory record of service
- (d) Subject to production of physical and mental fitness certificate from competent medical officer

11 Appointment of Copiest

The appointment of copiest shall be either on deputation from judicial Service or on contract subject to fulfillment of following conditions.

- (a) Who should possess higher typing and Stenography.
- (b) Who have not attained the age of 58 years.
- (c) Who have satisfactory record of service
- (d) Subject to production of physical and mental fitness certificate from competent medical officer

12 Appointment of Attenders

Appointment of Attendees shall be on deputation from judicial service or on contract basis. The terms and conditions are as applicable to out sourcing employees under Government orders.

13 General conditions

- (i) The employees who were dismissed ,removed, compulsorily retired or made to seek retirement are not eligible for reemployment
- (ii) On appointment the appointees shall enter into an agreement with the concerned Unit Head initially
- (iii) The appointment is initially for a period of one year and renewable every year subject to satisfaction of service and fitness.
- (iv) The employees shall discharge their duties sincerely, courteously and honestly to the satisfaction of the Special Magistrate.

- (v) The Services of reemployed employees are liable to terminate at any time without assigning any reason and without any notice.
- (vi) The Officers appointed on deputation basis will carry their pay and allowance applicable to their services. They are not entitled for any deputation allowances.
- (vii) The Special Magistrate is the drawing and disbursing officer.
- (viii) The drawing and disbursing officer shall prepare annual budget and send the same to the Commissioner Rural Development in the Month of January every year.
- (ix) The drawing officer shall prepare every month the salary bills and send it by 25 th of every month
- (x) On receipt of pay bills and after scrutiny the Commissioner Rural Development will release the money by the end of every month.
- (xi) The Drawing and disbursing Officer shall responsible for maintenance of the Accounts and reconciliation of Accounts.

Chapter III

Appointment of Public Prosecutor

14. Recruitment of Special Public Prosecutors

- (a) The Special Public Prosecutors shall be appointed as per the procedure applicable for criminal courts
- (b) The State Government shall ensure that the Special Public Prosecutors appointed and empanelled advocates shall have the right aptitude and understanding of the problems of rural society, economy and the rural poor.
- (c) The appointment of Special Public Prosecutors shall satisfy basic requirements of knowledge, experience and integrity.
- (d) The term of appointment of Special Public Prosecutor shall be for a period of one year. and shall be renewable by the Government after performance appraisal
- (e) The Special Public Prosecutors will be expected to be thorough with the government policy of rural development; the process of its implementation and principles of social audit.
- (f) The Special Public Prosecutor shall travel to all the villages wherever the Special Mobile Court holds the hearing throughout the month.
- (g) He shall assist the Assistant Project Directors in preparing the complaint, scrutinize the required documents and list of witnesses annexed with complaint.
- (h) Payment of fee to the Special Public Prosecutor shall be as fixed by the State Government
- (i) The empanelled shall mandatorily declare their assets and liabilities at the time of appointment.

Chapter IV

Procedure of the Special Mobile Court

15. Filing Complaints by Assistant Project Directors

- (a) The Assistant Project Directors shall file the complaints at the district headquarter where the Special Mobile Court is stationed as notified by the government.
- (b) The Assistant Project Directors shall file the complaint before court of special judicial magistrate on charges finalized in the Mandal Public Hearing soon after the completion of social audit.
- (c) The Assistant Project Director, before filing the complaint shall verify its legal requirements with the assistance of the Public Prosecutor and legal expert.
- (d) In the absence of Social Audit Mandal Public Hearing, the social audit report read in Grama Sabha shall be considered as enquiry report by Assistant Project Director for the purpose of filing complaint before the Special Mobile Court.

- (e) On the basis of appeal to government by the director of Social Audit Agency, the Commissioner of Rural Development shall direct the Assistant Project Director to file complaint before the Special Mobile court.

16. The Arrangements to hold Mobile Court in the Villages

- (a) The mobile court shall hold the hearing and trial in a central location for a group of contiguous villages. The court will consider the place of hearing and trial as per the number of cases or classes of cases filed from a village or contiguous villages.
- (b) The magistrate shall hear the cases in any village falling under his jurisdiction and conduct trial or proceedings at any place which he considers is in close proximity to the place where the beneficiaries of welfare schemes ordinarily reside or where the whole or part of the welfare scheme executed.
- (c) In the last week of every month, the court shall display in FORM –A provided along with rules the dates and venues of the hearing by the court next month.
- (d) The list of cases to be heard shall be displayed in the prominent places in the villages where the mobile court decides to hold the sittings.
- (e) The Secretary of Gram Panchayat shall be responsible for making necessary arrangements as directed by District Program Coordinator/District Collector.
- (f) The Program Officer/Mandal Parishad Development Officer shall give wide publicity as to the date and place of hearing by mobile court.
- (g) Every police officer functioning within the local limits of jurisdiction of a mobile court shall assist the court in the exercise of its lawful authority.

17. Proceedings of the Special Mobile Court

- (a) The registration, numbering and date of hearing shall be as decided by the Magistrate.
- (b) **The language of court proceedings:** - The proceedings before the Special Mobile Court and its judgment shall be in one of the official languages of the state or English
- (c) It shall be the responsibility of Assistant Program Officer to produce the witnesses before the court.
- (d) **Producing Records:** -It shall be the responsibility of the Program Officer/MPDO to produce the original records of the development schemes executed. The failure to protect and produce the original records will be deemed to be an attempt to protect the accused and the government shall launch prosecution under relevant sections of the Indian Penal Code 1860.
- (e) **Record of oral evidence.** - In suits or proceedings before a Special Mobile Court, it shall not be necessary to record the evidence of witnesses at length, but the Magistrate, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of substance of what the witness deposes, and such memorandum shall be signed by the witness and it shall form part of the record.
- (f) **Pronouncement of judgment.** - (1) the judgment in every trial shall be pronounced by the magistrate in open court immediately at the end the termination of the trial. (2) The magistrate shall deliver a copy of its judgment immediately to both the parties free of cost.
- (g) **Application of Indian Evidence Act, 1872.** - A Special Mobile Court may receive as evidence any report, statement, document, print or digital, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872.
- (h) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Special Mobile Court.
- (i) The court may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding, summon and examine any such person as to the facts contained in his affidavit.

18 Transfer of pending proceedings.

- (a) The Court of Session, with effect from such date as may be notified by the High Court, may transfer all the criminal cases, resulting from irregularities made out in social audits and pending before the Judicial Magistrate of First Class, to the Special Mobile Courts set up under the Act.
- (b) The Special Mobile Court may, in its discretion, either retry the cases or proceed from the stage at which it was transferred to it.
- (c) The provisions of the limitation Act for taking cognizance of certain offences under chapter XXXVI of the Code of Criminal Procedure, 1973 shall be applicable in respect of the offences triable by the Special Mobile Court.

Chapter. V

REVIEW OF PERFORMANCE

- 19** (a) The Special Mobile Court shall submit the monthly progress report in Form B of a case to the High Court under copy to the Govt.
- (b) A separate statement shall also be furnished in FORM-C indicating the pendency / status of court cases
 - (c) Every Month at least two copies of the judgment shall be submitted to the High Court for assessing the quality of judgments.

20. Review of Performance of Special Public Prosecutors

- (a) The District Vigilance Officer, shall review at least twice in a calendar year, in the month of January and July, the performance of Special Public Prosecutors and submit a report to the State Government.
- (b) If the State Government is satisfied or has reason to believe that a Special Public Prosecutor has not conducted the case to the best of his ability and with due care and caution, his name may be, for reasons to be recorded in writing, de-notified.
- (c) The District Vigilance Cell, shall review the position of cases registered under the Act and submit a monthly report on or before 25th day of each subsequent month to the Commissioner of Rural Development and the State Government. This report shall specify the actions taken/proposed to be taken in respect of investigation and prosecution of each case.
- (d) The High Court shall review and monitor the progress of disposal of cases by the Special Mobile Courts

FORM. A
(rule 17 (c))

Format for details of court cases to be displayed at the district, Mandal and village

S. No	Name of Accused and Crl M P No	Designation	Official & Residential Address	No charges	Summary of charges	Date and timing of hearing	Place of hearing by Court
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

FORM. .B
(rule 20 (a))

MONTHLY PROGRESS REPORT OF CASES

S. No	No of Cases Pending	New cases filed during the month	Total No of case	No of cases disposed of.	Remarks if any
(1)	(2)	(3)	(4)	(5)	(6)

FORM-C
(rule 20 (b))

STATUS OF THE PENDING CASES REPORT

S. No	No of Cases below 3 months	No.of Cases below above 3months and below 6 months	No of case above 6months and below 1year	No of cases more than 1year.	Remarks if any
(1)	(2)	(3)	(4)	(5)	(6)

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.SUBRAHMANYAM
PRINCIPAL SECRETARY TO GOVERNMENT (RD)

To
The Commissioner of Printing, Stationary and Stores Purchase A.P. Hyderabad, with a request to publish in the Extraordinary Gazette Dated : 15-04-2008 and furnish 1000 copies to Government
The Commissioner of Rural Development.
All Special Mobile Courts in the State.
The Home (Courts.C) Department
The Registrar (Vigilance), High Court of Andhra Pradesh, Hyderabad.
The Accountant General, Andhra Pradesh, Hyderabad
The General Administration (Cabinet) Department (for information).
The Collectors of all Districts in the State
The Director of Treasuries & Accounts, A.P, Hyd.
The Pay and Accounts Officer, Hyderabad
Law (A) Department
SF/SC.

//FORWARDED:: BY ORDER//

SECTION OFFICER